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CHEMICAL AND BIOLOGICAL WARFARE ELIMINATION ACT

NOVEMBER 8, 1989.—Ordered to be printed

pt.1 = H383-12.

1008-C;
1008-D

Mr. ROSTENKOWSKI, from the Committee on Ways and Means, submitted the following

REPORT

Y1.1/8:101-334/pt.2

[To accompany H.R. 3033 which on July 27, 1989, was referred jointly to the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on Banking, Finance and Urban Affairs]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3033), to control the export to countries pursuing or expanding the ability to produce or deliver chemical or biological weapons, of items that would assist such countries in acquiring such ability, to impose sanctions against companies which have aided in the proliferation of chemical or biological weapons, to provide for sanctions against countries which use or prepare to use chemical or biological weapons in violation of international law, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chemical and Biological Warfare Elimination Act".

SEC. 2. FINDINGS.

The Congress makes the following findings and declarations:

(1) it is a top priority to achieve a comprehensive global convention, with adequate provisions for verification, to prohibit the production and stockpiling of chemical weapons.

(2) All countries should cease development, production, and stockpiling of chemical weapons on a verifiable basis at the earliest possible date.

(3) The United States should cooperate in and lead multilateral efforts to stop the proliferation of chemical weapons. These efforts include the negotiations at

the Geneva Conference on Disarmament for a worldwide ban on chemical weapons, controls on proliferation of chemical precursors through the Australia suppliers group, the Paris Conference of January 1989 on chemical weapons use, and the conference on chemical weapons proliferation held in Canberra, Australia, in September 1989.

(4) The United States should also impose the necessary controls on United States exports to prevent the proliferation of chemical and biological weapons and should discourage foreign companies from transferring similar items.

(5) The United States should work with other countries or groups of countries to adopt progressively stronger measures (including appropriate sanctions) against countries that use chemical or biological weapons in violation of international law or develop, produce, or stockpile biological weapons. The President is urged to pursue multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing "appropriate and effective" sanctions against any country which uses chemical weapons in violation of international law.

TITLE I—MEASURES TO PREVENT THE PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SEC. 101. MULTILATERAL EFFORTS.

It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons.

SEC. 102. EXPORT CONTROLS.

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control and the export of those goods and technologies,

that the President determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b) EXPORT ADMINISTRATION ACT.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended by adding at the end the following:

"(q) CHEMICAL AND BIOLOGICAL WEAPONS.—A validated license shall be required under this section for the export of any goods or technology that the President determines would assist the recipient country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons, unless the destination of such export is a country with whose government the United States has entered into bilateral or multilateral arrangements for the control of chemical or biological weapons related goods or technology.".

SEC. 103. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.

(a) IMPOSITION OF SANCTIONS.—

(1) FOREIGN PERSONS ON WHICH SANCTIONS IMPOSED.—Except as provided in subsection (b)(2), the President shall impose either or both of the sanctions described in subsection (c) on a foreign person if the President determines that, on or after the date of the enactment of this Act, that foreign person knowingly and substantially contributed to the efforts by a country described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) FOREIGN COUNTRIES USING OR PREPARING TO USE CHEMICAL OR BIOLOGICAL WEAPONS IN VIOLATION OF INTERNATIONAL LAW.—Paragraph (1) applies if the President determines that, on or after the date of the enactment of this Act, the country referred to in paragraph (1) either used chemical or biological weapons in violation of international law or is making substantial preparations to do so.

(3) PERIOD OF SANCTIONS.—Except as otherwise provided in this section, sanctions shall be imposed under this section for a period of not less than 2 years.

(b) CONSULTATIONS WITH AND ACTIONS BY GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ADEQUATE CORRECTIVE ACTION BY GOVERNMENT OF JURISDICTION.—Sanctions are not required to be imposed on a foreign person pursuant to this sec-

tion if the President determines that the government with primary jurisdiction over that foreign person has taken adequate corrective action with respect to the acts by that foreign person that after described in subsection (a).

(3) REPORT TO CONGRESS.—If the President does not impose sanctions on a foreign person under this section pursuant to a determination under paragraph (2), the President shall report to the Congress the basis for that determination. This report shall be submitted not later than 90 days after the President makes the determinations described in subsection (a).

(c) SANCTIONS.—The sanctions to be imposed on a foreign person pursuant to subsection (a) are the following, except as provided in subsection (e):

(1) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from that foreign person.

(2) IMPORT SANCTIONS.—The importation into the United States or products produced by that foreign person shall be prohibited.

(d) TERMINATION OF SANCTIONS.—A sanction imposed on a foreign person under this section shall cease to apply to that foreign person if the President determines and certifies to the Congress that there is reliable evidence that the foreign person has ceased all activities described in subsection (a).

(e) EXCEPTIONS.—The President shall not apply sanctions under subsection (c)—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions;

(3) to—

(A) spare parts,

(B) component parts, but not finished products, essential to United States products or production, or

(C) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(4) to information and technology; or

(5) to medical or other humanitarian items.

(f) WAIVER AND REPORT.—

(1) WAIVER.—The President my waive the imposition of any sanction imposed on a foreign person under this section if the President determines that such waiver is important to the national security interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—In the event that the President decides to apply the waiver described in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(g) OTHER REPORTS TO CONGRESS.—In addition to the report under subsections (b)(3) and (f)(2), the President shall report to the Congress on all other determinations made under this section.

(h) DEFINITION.—For purposes of this section, the term "foreign person" means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

TITLE II—MEASURES TO DETER THE USE OF CHEMICAL OR BIOLOGICAL WEAPONS

SEC. 201. PRESIDENTIAL DETERMINATION CONCERNING CERTAIN COUNTRIES.

The President shall determine whether any foreign country has, on or after the date of the enactment of this Act—

(1) used chemical or biological weapons in violation of international law;

(2) made substantial preparations to use chemical weapons in violation of international law; or

(3) developed, produced, or stockpiled biological weapons in violation of international law.

SEC. 202. SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS IN VIOLATION OF INTERNATIONAL LAW.

(a) SANCTIONS.—If, at any time, the President determines that a country has engaged in activities described in section 201(1), the President shall forthwith impose the sanctions set forth in at least 3 of the following paragraphs:

(1) PROHIBITION ON ARMS SALES.—The United States Government shall not, under the Arms Export Control Act, sell to that country any item on the United States Munitions List, or issue any license for the export to that country of any item on the United States Munitions List.

(2) EXPORTS OF NATIONAL SECURITY-SENSITIVE GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration act of 1979 shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 5(c)(1) of that Act.

(3) FURTHER EXPORT RESTRICTIONS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit or otherwise substantially restrict exports to that country of goods and technology (excluding agricultural commodities and products).

(4) IMPORT RESTRICTIONS.—Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(5) FOREIGN ASSISTANCE.—No assistance shall be provided to that country under the Foreign Assistance Act of 1961 or the Arms Export Control Act other than assistance which is intended to benefit the people of that country directly and is not channeled through governmental agencies or entities of that country.

(6) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance to that country by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

(7) DENIAL OF CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States shall deny to that country any credit or financial assistance by any department, agency, or instrumentality of the United States Government.

(8) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and that country.

(b) DETERMINATION TO BE REPORTED TO CONGRESS.—Any determination under subsection (a) shall be reported promptly to the Congress.

(c) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—Unless, within 3 months after making a determination under subsection (a) with respect to a country, the President determines and certifies in writing to the Congress—

(1) that such country is no longer conducting any activity described in section 201(1),

(2) that the government of such country has provided reliable assurances that the country will not in the future conduct any activity described in section 201(1), and

(3) that—

(A) such government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers, or

(B) other reliable means exists,

to ensure that the country is not using chemical or biological weapons in violation of international law,

then the President, after consultation with the Congress, shall impose on that country at least 1 sanction set forth in paragraphs (1) through (8) of subsection (a) which has not previously been imposed on that country under subsection (a).

(d) CONDITIONS FOR LIFTING SANCTIONS.—The President may terminate any sanction imposed on a country under subsection (a) or (c) if the President determines and so certifies in writing to the Congress—

(1) that the country is no longer conducting any activity described in section 201(1); and

(2) that the conditions described in paragraphs (2) and (3) of subsection (c) have been met.

(e) WAIVER AND REPORT.—

(1) PRESIDENTIAL WAIVER.—The President may waive the imposition of any sanction imposed under subsection (a) or (c) if the President determines that such waiver is important to the national security interests of the United States.

(2) REPORT.—In the event that the President decides to apply the waiver described in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

SEC. 203. SANCTIONS AGAINST OTHER VIOLATIONS OF INTERNATIONAL LAW WITH RESPECT TO CHEMICAL OR BIOLOGICAL WEAPONS.

(a) SANCTIONS.—If, at any time, the President determines that a country has engaged in activities described in section 201(2) or (3), the President may impose any sanction described in section 202(a).

(b) IMPOSITION OF SANCTIONS TO BE REPORTED TO CONGRESS.—The President shall report promptly to the Congress the imposition of any sanction under subsection (a).

SEC. 204. CONTRACT SANCTITY.

In imposing any sanction under this title, the President may not prohibit or curtail any transaction—

(1) in performance of any contract or agreement entered into before the date on which the President reports to the Congress the imposition of the sanction, or

(2) under a validated license or other authorization issued under the Export Administration Act of 1979 or other provision of law,

unless and until the President determines and certifies to the Congress that—

(A) a breach of the peace poses a serious and direct threat to the strategic interest of the United States,

(B) the prohibition or curtailment of such contracts, agreements, licenses, or authorizations will be instrumental in remedying the situation posing the direct threat, and

(C) the sanction will continue only so long as the direct threat persists.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. PRESIDENTIAL REPORTING REQUIREMENTS.

(a) REPORTS TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, and every 12 months thereafter, the President shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report which shall include—

(1) a description of the actions taken to carry out this Act and the amendment made by section 102(b) of this Act;

(2) a description of the current efforts of foreign countries to acquire equipment, materials, or technology to develop, produce, or use chemical or biological weapons, together with an assessment of the current and likely future capabilities of such countries to develop, produce, or use such weapons;

(3) a description of the use of chemical weapons in violation of international law, of substantial preparations to do so, and of the development, production, stockpiling, or use of biological weapons by foreign countries; and

(4) a description of the extent to which foreign persons or governments have knowingly and substantially assisted third countries to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons.

(b) PROTECTION OF CLASSIFIED INFORMATION.—To the extent practicable, reports submitted under subsection (a) or any other provision of this Act should be based on unclassified information. Portions of such reports may be classified.

BACKGROUND AND PURPOSE

While the President has the authority under various statutes to impose sanctions, including import and export restrictions, against foreign countries under certain circumstances, none of these statutes establishes a comprehensive policy for dealing with the proliferation of chemical and biological weapons. H.R. 3033, the Chemical and Biological Warfare Elimination Act, is intended to provide

a clear framework for U.S. efforts to control the proliferation of such weapons. The bill stresses the importance of the United States taking the lead in multilateral efforts to achieve chemical weapons disarmament and in efforts to control the export of goods or technology that can be used to make or use chemical or biological weapons.

Although the Committee is of the view that the control of chemical and biological weapons is an important and laudable goal, the Committee is concerned that there appears to be an increasing tendency to resort to unilateral U.S. trade sanctions to achieve any number of equally worthy policy goals internationally. Most objective analysis of the use of trade sanctions to achieve various foreign policy goals shows that sanctions are most effective when imposed multilaterally against a country. Unilateral sanctions rarely have a significant effect on the target country, unless the country imposing sanctions is the sole source of goods whose export is prohibited or its market is the only viable outlet for the sale of goods from the target country. The United States, if it ever fell into this category, does so less and less in today's world, where the diffusion of technology and the growth of foreign markets is so extensive.

The Committee is concerned that the unilateral imposition of trade sanctions by the United States, while appropriate in some cases, not only may not achieve the goals sought by the proponents of such sanctions; but to the contrary, places an unduly heavy burden on U.S. exporters and importers relative to those of our trading partners. The Committee therefore urges the Administration, if it imposes sanctions against a country under authority of this bill, to seek the timely imposition of substantially similar sanctions by other major producers of goods and technology which can be used to make or deliver chemical or biological weapons. If, in the course of consultations seeking such sanctions, the President determines that the major producer countries are unwilling to impose substantially similar sanctions within a reasonable period of time, then he should give serious consideration to terminating the unilateral U.S. sanctions.

SUMMARY

H.R. 3033, as amended, states that it is U.S. policy to seek multilaterally coordinated efforts to control the proliferation of chemical and biological weapons (CBW). It establishes additional U.S. export controls on goods or technology that can be used to make or use CBW. It also establishes a framework for the imposition of U.S. sanctions against persons or countries involved in various stages of the manufacture or use of CBW.

The bill as amended requires the President to impose sanctions against foreign persons that he determines have knowingly and substantially contributed to a country's efforts to make or use CBW, but only if that country actually used CBW in violation of international law or is making substantial preparations to do so. Sanctions include a prohibition on: U.S. Government procurement of goods or services and/or the importation into the United States of products produced by the person. Sanctions must remain in place for at least two years or until the President determines the

person has ceased the activities which led to sanctions. Certain exceptions are provided (e.g. for spare and component parts), and the President may waive sanctions if he determines a waiver is important to the national security interests of the United States. Sanctions need not be applied if the foreign government with jurisdiction over the foreign person has taken adequate corrective action. Various reporting requirements also are established.

H.R. 3033 as amended requires the President to impose sanctions against any country he determines has used CBW in violation of international law. He must impose at least three of eight possible sanctions, including possible restrictions on imports; and impose at least one additional sanction within three months if the country has not ceased its use of CBW. Sanctions may be terminated if the President determines the country meets certain conditions assuring that it is not using CBW. Sanctions previously imposed could be terminated under the same conditions. The President may impose sanctions against any country that has made substantial preparations to use chemical weapons in violation of international law; or that has developed, produced, or stockpiled biological weapons in violation of international law. The President may waive the imposition of sanctions against a country if he determines that a waiver is important to the national security interests of the United States. A number of reporting requirements relating to Presidential actions and waivers are established.

The bill as amended contains various reporting requirements relating to actions to implement the bill; the efforts of foreign countries to acquire CBW; CBW use or preparations; and the extent to which foreign persons and governments knowingly contributed to CBW development.

Committee Action

H.R. 3033 was introduced on July 27, 1989, and was referred jointly to the Committees on Ways and Means; Foreign Affairs; and Banking, Finance and Urban Affairs. On November 8, 1989, the Committee on Ways and Means considered H.R. 3033 and ordered the bill favorably reported by voice vote with an amendment in the nature of a substitute.

Section-By-Section Analysis

Section 1. Short title.

This section states that the Act may be cited as the "Chemical and Biological Warfare Elimination Act".

Section 2. Findings.

This section makes five findings relating to the importance of chemical weapons disarmament; multilateral and unilateral efforts to limit chemical and biological weapons proliferation; and other related matters.

TITLE I. MEASURES TO PREVENT THE PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

Section 101. Multilateral efforts.

This section states that it is U.S. policy to seek multilaterally coordinated efforts to control the proliferation of chemical and biological weapons.

Section 102. Export controls.

Section 102 establishes additional U.S. export controls on defense articles and services and on goods and technologies that the President determines would assist a country in developing, producing, stockpiling, delivering, or using chemical or biological weapons.

Section 103. Sanctions against certain foreign persons.

This section requires the President to impose sanctions against foreign persons that he determines have knowingly and substantially contributed to a country's efforts to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons; but only if that country actually uses, or is making substantial preparations to use, chemical or biological weapons in violation of international law. Sanctions include a prohibition on U.S. Government procurement of goods or services from the person and/or a prohibition on the importation into the United States of products made by that person. Exceptions, such as for spare or component parts, are provided.

Sanctions must remain in place for at least two years or until the President determines and certifies to the Congress that there is reliable evidence the foreign person has ceased the activities leading to sanctions. Sanctions may be terminated under the same circumstances. Sanctions may be waived if the President determines a waiver is important to the national security interests of the United States.

Section 103 requires the President to report to Congress at least 20 days prior to applying a waiver and on other determinations made under this section.

TITLE II. MEASURES TO DETER THE USE OF CHEMICAL OR BIOLOGICAL WEAPONS

Section 201. Presidential determination concerning certain countries.

This section requires the President to determine whether any country, on or after the date of enactment, has: (1) used chemical or biological weapons in violation of international law; (2) made substantial preparations to use chemical weapons in violation of international law; or (3) developed, produced, or stockpiled biological weapons in violation of international law.

Section 202. Sanctions against use of chemical or biological weapons in violation of international law.

Section 202 requires the President to impose at least three of a number of possible sanctions, including import restrictions, against any country that he determines has used chemical or biological

weapons in violation of international law. At least one additional sanction must be imposed within three months unless the President determines the country is not using chemical or biological weapons, the foreign government has provided reliable assurances that the country will not use such weapons in the future; and the government is willing to allow on-site inspections by impartial observers or other reliable means exist to ensure that the country is not using such weapons in violation of international law. Sanctions may be terminated under the same conditions. The President may waive the imposition of sanctions if he determines a waiver is important to the national security interests of the United States. Finally, the President is required to report to the Congress at least 20 days prior to any waiver and on the determinations made under this section.

Section 203. Sanctions against other violations of international law with respect to chemical or biological weapons.

Section 203 provides that the President may at any time impose sanctions against any country that he determines has made substantial preparations to use chemical weapons in violation of international law or has developed, produced, or stockpiled biological weapons in violation of international law. Sanctions include the same possible sanctions, including import restrictions, provided for in section 202; the President is authorized to impose any of those sanctions. The President must report promptly to the Congress the imposition of any sanction under authority of this section.

Section 204. Contract sanctity.

This section provides that in imposing any sanction under authority of Title II, the President may not prohibit or curtail any contract or agreement entered into before he reports to the Congress the imposition of the sanction; nor may be prohibit or curtail any transaction under a validated export license or authorization, except under the following circumstances: if the President determines and certifies to the Congress that (A) a breach of the peace poses a serious and direct threat to the strategic interest of the United States; (B) the prohibition or curtailment of such contracts, agreements, licenses, or authorizations will be instrumental in remedying the situation posing the direct threat, and (C) the sanction will continue only as long as the direct threat persists.

TITLE III. MISCELLANEOUS PROVISIONS

Section 301. Presidential reporting requirements.

This section contains various reporting requirements. The President would be required to report within 90 days of the date of enactment and yearly thereafter on: actions to implement the statute; the efforts of foreign countries to acquire chemical and biological weapons; the use or preparations for use of chemical and biological weapons; and the extent to which foreign persons and governments knowingly and substantially assisted third countries to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons. The section also provides that

such reports should, to the extent practicable, be based on unclassified information but that portions of such reports may be classified.

Other Matters Required To Be Discussed Under the Rules of the House

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause (2)(l)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the committee in reporting the bill. H.R. 3033 was ordered favorably reported by voice vote with an amendment in the nature of a substitute by the Committee on Ways and Means.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee concludes, on the basis of discussions among members and review of recent developments as they relate to the proliferation of chemical and biological weapons, that such legislation is necessary to enhance U.S. efforts to achieve multilateral agreement to control the proliferation of such weapons.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

BUDGET AUTHORITY AND COST ESTIMATES, INCLUDING ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 7(a) of rule XIII and with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 3033 does not provide any new budget authority or any new or increased tax expenditures. The Committee also states that there are no tax expenditures or new budgetary authority providing financial assistance to State and local governments in H.R. 3033.

In compliance with clause 7(a) of rule XIII and with clauses 2(l) (3) (B) and (C) of rule XI of the Rules of the House of Representatives, the Committee agrees with the cost estimates furnished by the Congressional Budget Office on H.R. 3033 and required to be included herein:

U.S. Congress,
Congressional Budget Office,
Washington, DC, November 8, 1989.

Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed H.R. 3033, the Chemical and Biological Warfare Elimination Act, as ordered reported by the House Committee on Ways and Means on November 8, 1989. Title I of the bill requires the President to determine which goods and technologies exported by

U.S. firms could be used by recipient countries in acquiring chemical or biological weapons. Upon this determination, a validated license would be required for the export of any such good or technology. Title II of the bill mandates the imposition of sanctions against any country found to have used, subsequent to enactment of the bill, chemical or biological weapons in violation of international law. The imposition of sanctions, however, can be waived if the President determines that such a waiver is important to the national security interests of the United States.

Under Title I, implementation of the provision requiring a license of the export of any good or technology used in chemical or biological weapons could result in additional costs to the federal government. The President would have to determine which goods and technologies would require export licenses, and therefore the types of exports that would require a license are uncertain. As a result, CBO cannot estimate the cost of this provision with confidence. We expect that the federal government could incur additional costs of up to several million dollars annually if the number of exports determined to require a license is large. On the other hand, the costs incurred would probably not be significant if the number of exports determined to require a license is small. Other provisions of Title I are expected to have no significant budgetary effect on the federal government.

Title II of the bill is not expected to have a significant budgetary effect on the federal government. Under Title II, if a country is found to have used chemical or biological weapons in violation of international law and the President does not use his waiver authority, the President must impose at least three of the eight sanctions listed in the bill. The sanctions include, but are not limited to, the termination of foreign assisance to the country and the imposition of an import embargo on goods from that country. If sanctions are imposed and foreign assistance is withheld from a country, the foreign assistance would probably be reprogrammed for use in another country. In the event an import embargo is chosen as one of the sanctions, customs duties would not be collected on those imports. However, if the embargoed imports are replaced by imports from another country, there would be no net loss of customs duties, and therefore no impact on revenues.

Enactment of the bill would not affect the budgets of state and local governments.

Should the Committee so desire, we would be pleased to provide further details. Your staff may contact Kent Christensen at 226–2840 or Caroline Ratcliffe at 226–2720 for answers to any questions you may have.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer, Director.)

INFLATIONARY IMPACT

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 3033 would not have an inflationary impact on prices and costs in the operation of the general economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as H.R. 3033 reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 6 OF THE EXPORT ADMINISTRATION ACT OF 1979

FOREIGN POLICY CONTROLS

SEC. 6. (a) * * *

* * * * * * *

(q) CHEMICAL AND BIOLOGICAL WEAPONS.—A validated license shall be required under this section for the export of any goods or technology that the President determines would assist the recipient country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons, unless the destination of such export is a country with whose government the United States has entered into bilateral or multilateral arrangements for the control of chemical or biological weapons related goods or technology.

○